IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4107, 4113,
4116, 4117 and 4120 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SATYAPRAKASHSINGH DASHRATH SINGH

Versus

SARPANCH CHANOD GRAM PANCHAYAT

Appearance:

MR JB PARDIWALA for Petitioner

SERVED BY AFFIX.-(R) for Respondent No. 1

MT KT DAVE, AGP for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 02/08/2000

COMMON ORAL JUDGEMENT

The petitions were admitted on 1.5.2000 and notice as to interim relief was issued. Thereafter by order dated 12.7.2000, it was directed that the affidavit-in-reply shall be filed and in the meantime, it will be open to the petitioners to make a representation

to the authorities for offering them alternative site. The respondents were also required to consider the representation expeditiously and sympathetically.

2. Affidavit in reply dated 21.7.2000 has been filed by the District Development Officer, Valsad District Panchayat stating that the petitioners were allotted land for the purpose of kachha construction for residence by the Panchayat in the year 1979 on certain conditions and for that purpose they were allotted land in Survey No. 218, but the petitioners never utilized the said land and instead encroached on the Government land which was a public road. Hence, after following the due procedure, the respondents have removed the encroachments on 2.4.2000. As regards the petitioners' prayer for alternative land, it is stated that it is for the petitioners to make an application to the Collector. It is further stated that there is a possibility of giving accommodation to the petitioners in Survey No. 218.

3. The learned counsel for the petitioners states that the petitioners made a representation for giving the petitioners alternative site and the petitioners have indicated their preference for Survey No. 217 in the representation made to the Collector.

4. The next grievance of the learned counsel for the petitioners is that when there were about 35 cabins on the land in question and in the same alignment, it was arbitrary and discriminatory on the part of the authorities to pick the five petitioners and to remove their cabins allowing intact the cabins of others.

5. Having heard the learned counsel for the parties, it appears to the Court that the following observations and directions would serve the ends of justice :-

(i) It is not for this Court to indicate which particular parcel of land be given to the petitioners. Since the petitioners were already earlier allotted land in Survey No. 218 and that fact is stated in so many words by the District Development Officer himself, it would be just and proper to direct the respondents to consider the petitioners' representation and also to consider their prayer for alterative land particularly in view of the fact that the allotment of land in Survey No. 218 is admitted. The representation made by the petitioners shall be decided as expeditiously as possible and in any case within two months from the date of receipt of this

order.

(ii) If the other cabins are also on the public road, it is obvious that the authorities will act in accordance with law without allowing others to encroach on a public road. Hence, the authorities will take appropriate action in accordance with law in respect of the other cabins on the public road in question after following the due procedure of law.

6. The petitions are disposed of in terms of the aforesaid directions and observations. Rule is discharged with no order as to costs.

August 2, 2000 (M.S. Shah, J.)

sundar/-